

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

IN RE: UNIFIED MESSAGING	§	MDL No. 2371 (ALL CASES)
SOLUTIONS, LLC	§	
PATENT LITIGATION	§	Master Docket No. 12 C 6286 (ALL CASES)
	§	
	§	Hon. Joan H. Lefkow
	§	
	§	
	§	

**MOTION FOR JUDGMENT ON THE PLEADING THAT THE '141, '306, '313, AND  
'148 PATENTS ARE UNENFORCEABLE**

The undersigned Defendants respectfully move this Court for judgment on the pleadings that the '141, '306, '313, and '148 patents-in-suit are unenforceable, and for dismissal of those cases in which UMS has only asserted such unenforceable patents. In those cases where the Defendants are also accused of infringing other patents, the Defendants respectfully request that the '141, '306, '313, and '148 patents be dismissed from those actions as unenforceable.

As grounds for this motion, which are more fully set forth in the Memorandum in Support of Defendants' Motion for Judgment on the Pleadings filed contemporaneously herewith, and incorporated herein by reference, Defendants state as follows:

1. The patentee promised the Patent Office, via terminal disclaimers, that four of the patents-in-suit, U.S. Patent Nos. 7,836,141 ("the '141 patent"), 7,895,306 ("the '306 patent"), 7,895,313 ("the '313 patent"), and 7,934,148 ("the '148 patent") (collectively, the "Terminally Disclaimed Patents"), would be "enforceable only for and during such period that it and the prior patents are commonly owned." These terminal disclaimers extend to any grantee, successor or assignee, and therefore, bind UMS.

2. UMS claims to be the exclusive licensee with "ownership of all substantial rights" to the patents-in-suit, making it the owner-in-fact of the Terminally Disclaimed Patents.

3. One prior patent subject to the disclaimers is U.S. Patent No. 6,350,066 (“the ’066 patent”). As such, the ’066 patent must also be commonly owned by UMS, otherwise the Terminally Disclaimed Patents are unenforceable.

4. UMS has repeatedly and consistently insisted that it has no ownership interest in the ’066 patent. During the May 23, 2013 *Markman* Hearing, UMS disavowed any ownership of the ’066 patent.

5. Rather, the ’066 patent is owned by Advanced Messaging Technologies, Inc. (“AMT”), a different party that, as UMS made clear, has no privity with UMS. AMT has consistently claimed that it “owns by assignment, the entire right, title and interest in and to the ’066 Patent” in separate patent infringement action in the Central District of California.

6. Because the ’066 patent is not owned by UMS, the party holding ownership of the Terminally Disclaimed Patents, the Terminally Disclaimed Patents are unenforceable as a matter of law.

WHEREFORE, Defendants respectfully request that the Court enter judgment on the pleading that the ’141, ’306, ’313, and ’148 patents are unenforceable, and accordingly dismiss all cases in which UMS has only asserted such unenforceable patents.

Dated: July 3, 2013	Respectfully submitted,  By: /s/ Kal K. Shah Kal K. Shah THOMPSON COBURN LLP 55 East Monroe Street Chicago, IL 60603 Tel: 312.580.2338 KShah@thompsoncoburn.com  Anthony F. Blum THOMPSON COBURN, LLP One US Bank Plaza
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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system on this 3rd day of July, 2013.

/s/ Anthony F. Blum  
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